

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DANIEL KLEEBERG, LISA STEIN,
and AUDREY HAYS,

Plaintiffs,

AFFIRMATION OF
ROBERT B. CALIHAN

v.

Civil Action No. 1:16-cv-09517

LESTER EBER; ALEXBAY, LLC f/k/a
LESTER EBER, LLC; ESTATE OF ELLIOTT W.
GUMAER, JR.; and WENDY EBER

Defendants,

and

EBER BROS. & CO., INC.;
EBER BROS. WINE AND LIQUOR
CORPORATION; EBER BROS. WINE
& LIQUOR METRO, INC.; EBER-
CONNECTICUT, LLC; EBER-RHODE
ISLAND, LLC; EBER BROS.
ACQUISITION CORP.; EBER-METRO,
LLC; SLOCUM & SONS OF MAINE, INC.,

Defendants.

ROBERT B. CALIHAN, an attorney duly admitted to practice law before this Court,
does hereby affirm the following under the penalties of perjury:

1. I am counsel for The Estate of Elliot W. Gumaer, Jr. ("Estate") in this proceeding.
This affirmation is made in support of the Estate's motion for partial summary judgment
dismissing certain claims against it.

2. This proceeding was started by Complaint dated December 9, 2016. I appeared in
this action on behalf of Elliot W. Gumaer, Jr. on March 2, 2017.

3. Shortly after Mr. Gumaer received the Complaint, I was retained to represent him and visited him at his house in Sea Island, Georgia.

4. During my visit I was unable to converse with him. He could not form coherent sentences and did not appear to understand what I was saying. I was told he had had a series of strokes.

5. I visited him several months later and had the same experience.

6. For the same reason, I was unable to ever speak with him on the phone.

7. I never was able to have a conversation with him about the claims against him in this action or anything related to those claims.

8. Mr. Gumaer died on February 20, 2018.

9. I attached Exhibit A, a copy of plaintiffs October 25, 2019 Response to the Gumaer Estate's Contention Interrogatories.

Dated: November 8, 2019

/s/ Robert B. Calihan